

### **LISTING OF PENDING CLAIMS**

*Amendments to the claims are reflected in the following listing of claims, which replaces all prior versions or listings of claims.*

1-26. (Cancelled)

27. (Previously presented) A method of making a nucleic acid comprising a coding sequence for expression in plant cells, said method comprising:

(a) starting with a coding sequence;

(b) modifying the coding sequence by substituting, for codons in the coding sequence, only codons for identical amino acids that have the highest frequency of use in plant genes, according to the plant codon usage table in Figure 1; and

(c) making a nucleic acid comprising the modified coding sequence that contains the substituted codons.

28. (Currently amended) The method claim 27, wherein the modifying comprises substituting the codon with highest frequency of use for codons that encode at least the first twenty-five amino acids of the starting coding sequence.

29. (Currently amended) The method of claim 27, wherein the modifying comprises substituting the codon with highest frequency of use for codons that encode at least 59 amino acids in the 5' end of the coding sequence.

30. (Previously presented) The method of claim 27, further comprising attaching flanking regulatory sequences to the modified coding sequence.

31. (Previously presented) The method of claim 27, wherein the starting coding sequence is a *Bacillus thuringiensis* (*B.t.*) coding sequence.

32. (Previously presented) The method of claim 31, wherein the starting coding sequence codes for a *B.t.* delta endotoxin protein.

33. (Currently amended) A method for constructing a nucleic acid comprising a protein coding sequence foreign to a plant cell and encoding a protein for expression in a plant cell, said method comprising

(a) starting with a protein coding sequence foreign to a plant cell;

(b) modifying the starting protein coding sequence of step (a) by substituting, for codons that encode at least the first twenty-five amino acids of the starting protein coding sequence, a codon selected from Figure 1 that encodes the same amino acid and is used in the highest frequency in plants, and

(c) constructing a nucleic acid comprising a coding sequence containing the codons selected from Figure 1 and encoding the protein.

34. (Previously presented) The method of claim 33, wherein the protein coding sequence encodes a prokaryotic or eukaryotic protein.

35. (Previously presented) The method of claim 33, wherein the protein coding sequence encodes a *Bacillus thuringiensis* (*B.t.*) protein.

36. (Previously presented) The method of claim 33, wherein the protein coding sequence encodes a *Bacillus thuringiensis* (*B.t.*) delta endotoxin.

37. (Previously presented) The method of any one of claims 33-36, further comprising:

(d) attaching flanking regulatory sequences to the nucleic acid that comprises the coding sequence containing the codons selected from Figure 1 and encoding the protein.

38. (Previously presented) A method for constructing a nucleic acid comprising a protein coding sequence foreign to a plant cell and encoding a protein for expression in a plant cell, said method comprising

(a) starting with a protein coding sequence foreign to a plant cell; and

(b) constructing a nucleic acid encoding the protein and containing codon substitutions relative to the starting protein coding sequence, wherein each codon substitution consists of a codon selected from Figure 1 that is used in the highest frequency in plants.

39. (Previously presented) A method for constructing a nucleic acid comprising a protein coding sequence foreign to a plant cell and encoding a protein for expression in a plant cell, said method comprising

(a) starting with a protein coding sequence foreign to a plant cell; and

(b) constructing a nucleic acid encoding the protein and containing codon substitutions in the 5' end of the protein coding sequence relative to the starting protein coding sequence, wherein each of said codon substitutions in the 5' end consists of a codon selected from Figure 1 that is used in the highest frequency in plants.

40. (Previously presented) A method for constructing a nucleic acid comprising a protein coding sequence foreign to a plant cell and encoding a protein for expression in a plant cell, said method comprising

(a) starting with a protein coding sequence foreign to a plant cell; and

(b) constructing a nucleic acid encoding the protein and containing codon substitutions in about the first 25 codons of the protein coding sequence relative to the starting protein coding sequence, wherein each of said codon substitutions in about the first

25 codons consists of a codon selected from Figure 1 that is used in the highest frequency in plants.

41. (Previously presented) The method of any one of claims 38-40, wherein the protein coding sequence encodes a prokaryotic or eukaryotic protein.

42. (Previously presented) The method of any one of claims 38-40, wherein the protein coding sequence encodes a *Bacillus thuringiensis* (*B.t.*) protein.

43. (Previously presented) The method of any one of claims 38-40, wherein the protein coding sequence encodes a *Bacillus thuringiensis* (*B.t.*) delta endotoxin.

44. (Previously presented) The method of any one of claims 38-40, further comprising:

(c) attaching flanking regulatory sequences to the nucleic acid that comprises the coding sequence containing the codons selected from Figure 1 and encoding the protein.